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Candace Havens
Director

Public Hearing Date: March 15, 2011
Land Use Action Date: May 17, 2011
Board of Aldermen Action Date: June 6, 2011
90-Day Expiration Date: June 7, 2011

DATE: March 11, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning ET
Derek Valentine, Senior Planner

SUBJECT: **Petition #47-11** CHARLES L. WEST for a SPECIAL PERMIT/SITE PLAN APPROVAL and to EXTEND A NONCONFORMING STRUCTURE to expand the kitchen into the side yard and extend a porch from the rear entrance to improve access for persons with disabilities which would increase the floor area ratio from .27 to .28, decrease rear yard setback from 15.4' to 12.5' and increase the lot coverage from 20.3% to 20.8% at 95 FOUNTAIN STREET, Ward 3, West Newton, on land known as SBL 32, 44, 5, containing approximately 11,335 square feet of land in a district zoned SINGLE RESIDENCE 1. Ref: Section 30-21(a)(2)(b), 30-21(b), and 30-24 of the City of Newton Revised Zoning Ordinance, 2007.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The lot at 95 Fountain Street is 11,355 square feet in a Single Residence 1 zone. It is currently improved with a 3,054 square-foot single-family Victorian built in the 1890s. The site is located on West Newton Hill and is surrounded by large Victorian homes, dating predominately from the late 19th century. Earlier this year, the petitioner undertook interior renovations to add a handicap-accessible bedroom and bathroom in the rear of the house in space formerly occupied by the kitchen and storage areas. The new kitchen addition would extend 5.5 feet beyond the existing rear wall of the structure and would create a larger kitchen space while allowing the petitioner to reclaim the storage space lost as a result of the recent accessibility upgrades. The existing structure is nonconforming with regard to lot coverage, floor area ratio (FAR), and rear setback. This petition, if approved, will result in an increase in the nonconforming lot coverage, FAR and an extension within the rear setback. The proposal is for a modest 71 square-foot addition and 21 square-foot porch. Both will have a minimal impact on the neighborhood, while altering a historic structure to meet the needs of today's families. Although the proposed FAR is slightly above the West Newton Hill neighborhood average, it will be the lowest FAR on Fountain Street, where all others currently exceed .30.

The newly adopted Ordinance Z-77 would not apply to this proposal because the ordinance does not go into effect until October 15, 2011 and because the petitioner is increasing his nonconformity with regard to lot coverage and side setbacks. If the petition was conforming with regard to setbacks and lot coverage, it would not have needed a special permit under Z-77 for FAR alone. However, the Planning Department evaluated how the calculation of FAR would be different for this project, had Z-77 applied. The detached garage, which does not count in the FAR under the current ordinance, would be included under Z-77. This would add approximately 263 square feet. This square footage, plus a negligible amount on the third floor would have resulted in an FAR of .29, with a maximum of .33 permitted.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When hearing this request, the Board should consider whether the following apply:

- a) The proposed increase in the nonconforming FAR is not substantially more detrimental to the neighborhood because the proposed FAR, if approved, would be the lowest on Fountain Street.
- b) The proposed extension into the setback is for a deck which is modest in size, will be located on the rear of the residence, and would not be visible from the street.
- c) At 20.8 %, the proposed lot coverage is only slightly above the 20% that is allowed in the zone, thus will not be substantially more detrimental to the neighborhood.
- d) The increases in FAR would be consistent with the size, scale, and design of

other structures in the surrounding neighborhood.

e) The improvements will be done in harmony with the historic character of the house and have been approved through an administrative review process by the City's Senior Preservation Planner.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

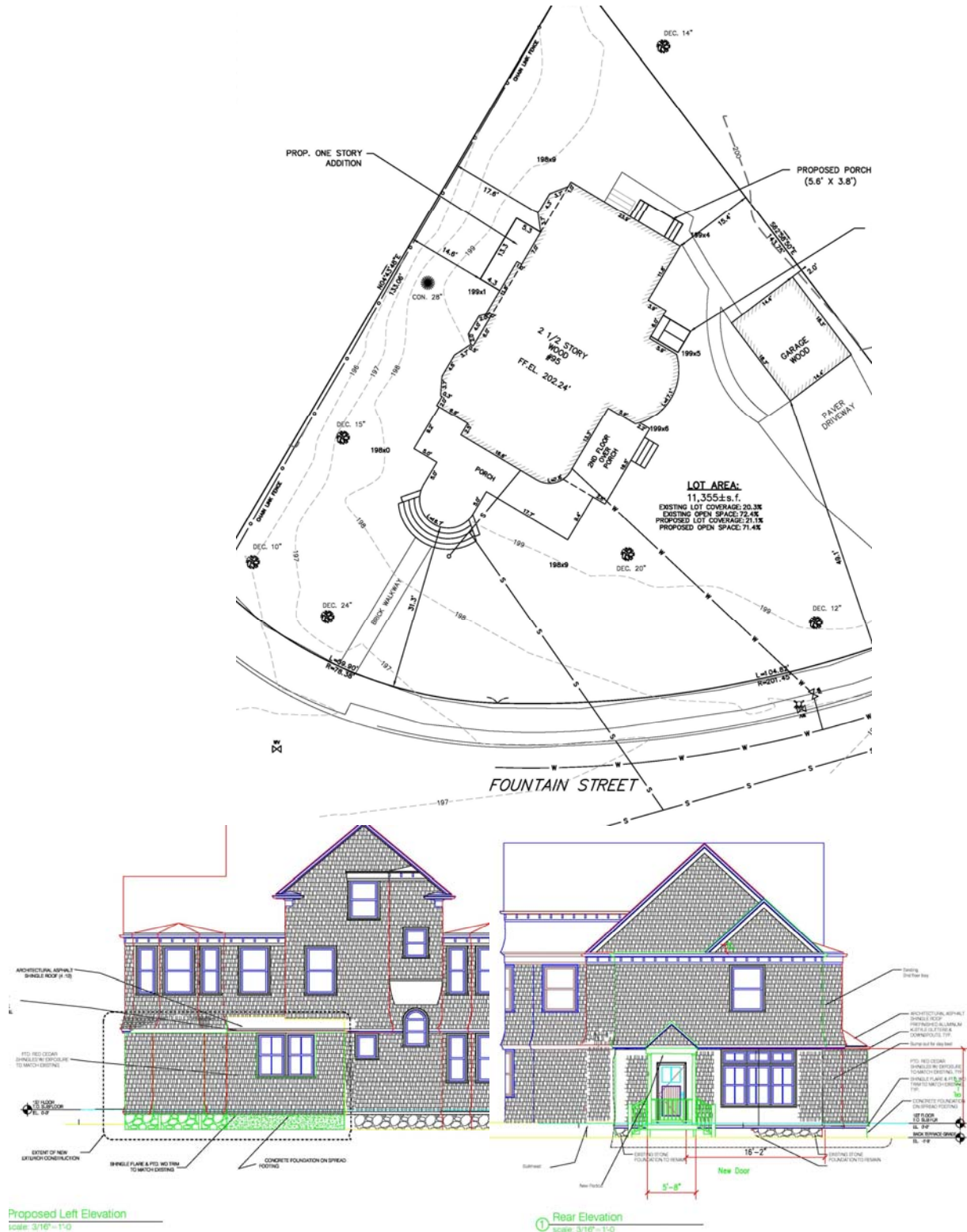
A. Neighborhood and Zoning

The property is located on the corner of Fountain Street and Valentine Street on West Newton Hill. The 2½-story, wood-frame house is consistent with other large historic homes in the neighborhood. At 11,335 square feet, the lot is smaller than what is typically found in the neighborhood, but the home is also smaller than most of the homes in this part of West Newton Hill. The entire vicinity surrounding the petitioner's property is zoned Single Residence 1 and is currently being used as such. The average FAR in this area of West Newton Hill is 0.23, but other properties on Fountain Street have higher FARs.

B. Site

The site is 11,335 square feet. It is surrounded by mature trees and is mostly level. The existing lot coverage is 20.3% with 72.4% open space.

III. PROJECT DESCRIPTION AND ANALYSIS



A. Land Use

The property will remain in single-family residential use.

B. Building and Site Design

The existing house is an historic Victorian. The site would remain relatively unchanged except for the 5½-foot kitchen bump-out in the side yard and the addition of a 5.6' x 3.8' covered porch at the rear entrance.

C. Parking and Circulation

The site is currently accessed off of Fountain Street via a paver driveway. Existing brick walkways provide pedestrian circulation for the site. There are no changes proposed to the parking and circulation as part of this petition.

D. Landscape Screening

The lot and neighborhood are characterized by mature landscaping. Several large hemlock trees are located between the proposed improvements and adjacent properties. As a result, no additional landscaping is necessary for this proposal.

IV. TECHNICAL REVIEW

A. Technical Considerations (Section 30-15). The Zoning Review Memorandum, dated December 14, 2010 (*SEE ATTACHMENT "C"*), provides an analysis of the proposal with respect to zoning. The property is already nonconforming with regard to FAR, rear setback, and maximum lot coverage. If approved, this petition would increase the FAR and lot coverage and would require an expansion into the rear setback. A special permit is required under Newton Zoning Ordinance Section 30-21(a)(2)(b) and Section 30-21(b).

B. Newton Historical Commission Demolition Review. The Senior Preservation Planner reviewed and approved the proposed addition.

C. Engineering Review: Since the increase in impervious coverage is minor, no Engineering review is required for this project.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum (*SEE ATTACHMENT "C"*) the petitioners are seeking the following reliefs:

- Section 30-21(a)(2)(b) and 30-21(b) to increase the nonconforming floor area ratio, lot coverage, and to allow an extension of the structure in the rear setback.

- Section 30-24, for issuance of Special Permit

VI. PETITIONERS' RESPONSIBILITIES

The petition is complete at this time.

ATTACHMENTS

ATTACHMENT A: ZONING VICINITY MAP

ATTACHMENT B: LAND USE VICINTY MAP

ATTACHMENT C: FAR VICINTY MAP

ATTACHMENT D: FAR TABLE

ATTACHMENT E: ZONING REVIEW MEMO DATED DECEMBER 14, 2010

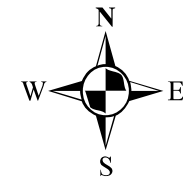
ATTACHMENT F: DRAFT BOARD ORDER #47-11

95 Fountain St Vicinity Zoning

*City of Newton,
Massachusetts*

Legend

- Single Residence 1
- Public Use



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

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Feet

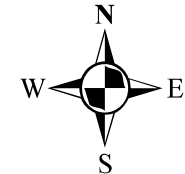
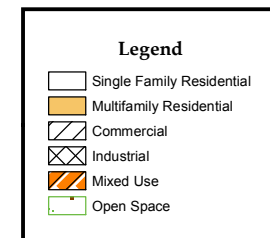
MAP DATE: March 10, 2011

ATTACHMENT A



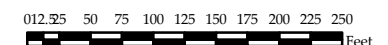
441 Watertown St. Vicinity Land Use

*City of Newton,
Massachusetts*



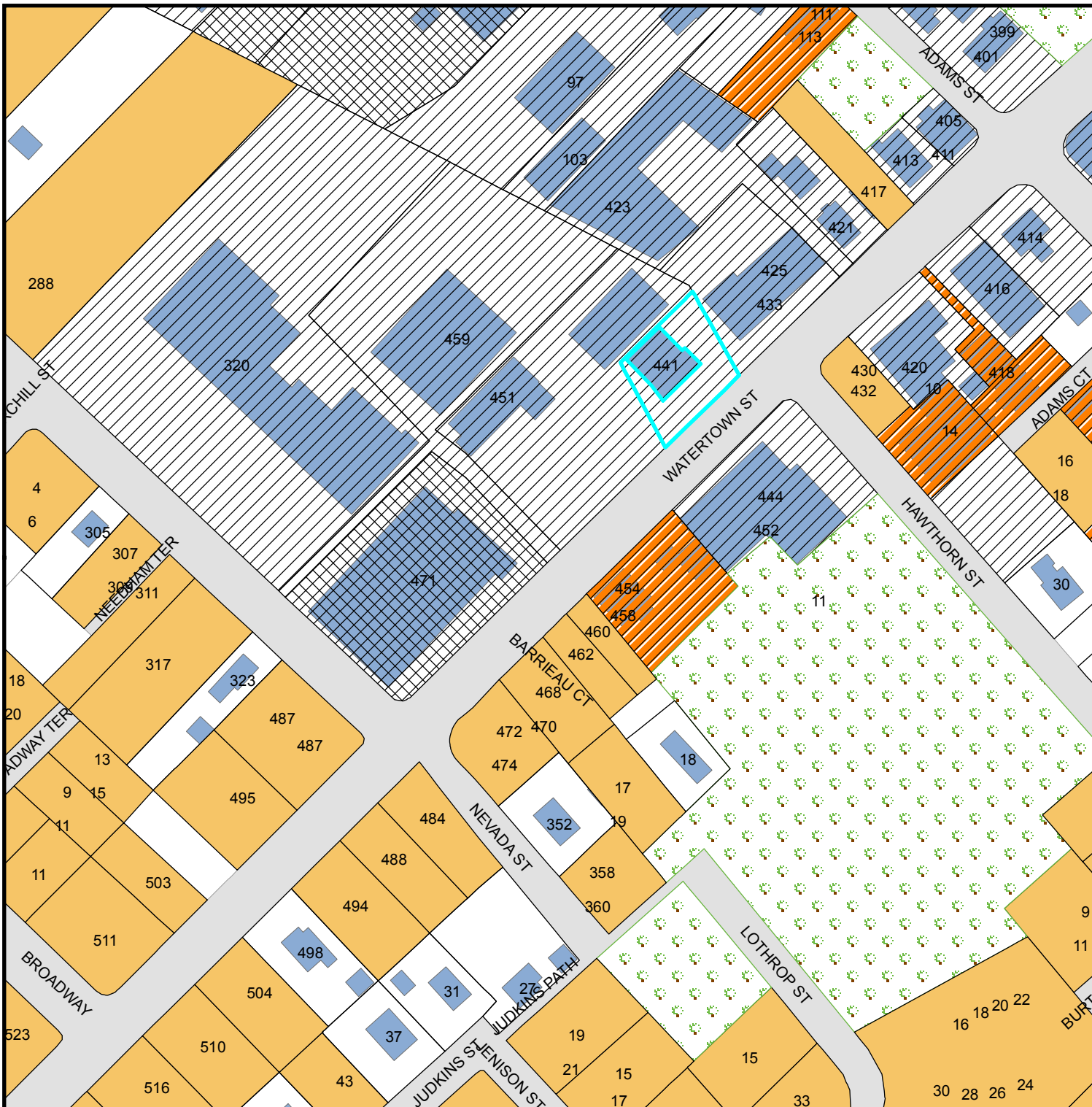
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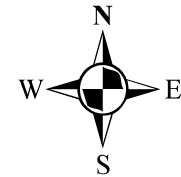
ATTACHMENT B



95 Fountain St Vicinity FAR

*City of Newton,
Massachusetts*

ATTACHMENT C

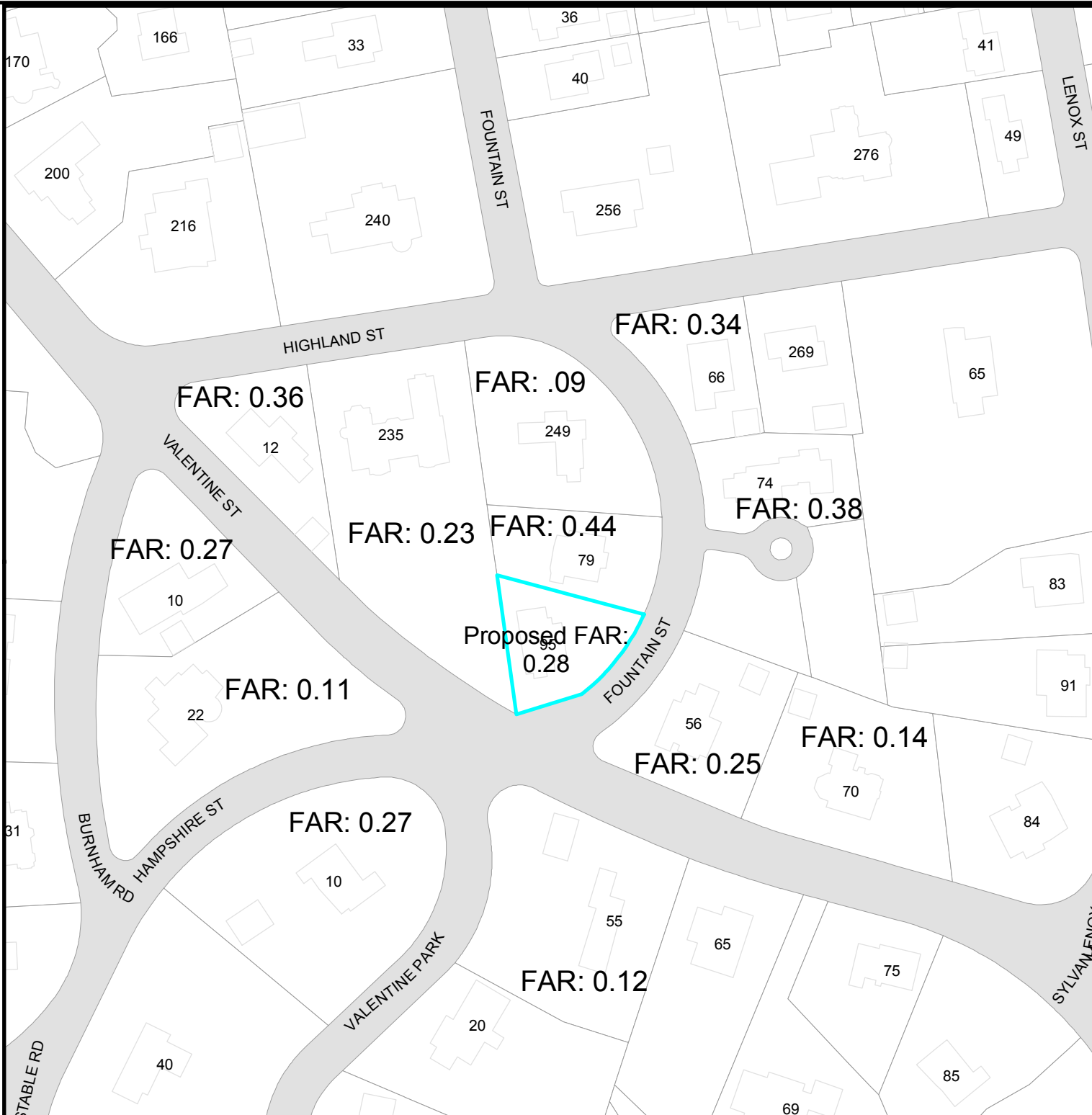


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 150
Feet

MAP DATE: March 10, 2011



ATTACHMENT D

Neighborhood Comparison Chart (Prepared by Planning Department based on information obtained from the Assessor's Database)

<u>Address</u>	<u>Approx. Yr. Built</u>	<u>Lot Size</u>	<u>Approx. Sq. Ft.</u>	<u>Approx. FAR</u>	<u>Material</u>	<u>Style</u>
66 Fountain St	1920	12,935	4,339	(0.34)	Clapboard	Colonial
74 Fountain St	1920	12,900	4,848	(0.38)	Wood Shingle	Colonial
79 Fountain St	1890	6,912	3,019	(0.44)	Clapboard	Victorian
90 Highland Ave	1870	12,936	3,244	(0.33)	Clapboard	Victorian
95 Fountain St	1896	11,355	3,054	(0.27)	Wood Shingle	Victorian
10 Burnham Rd	1915	17,889	4,790	(0.27)	Stucco	Colonial
22 Burnham Rd	1870	37,132	4,029	(0.11)	Clapboard	Victorian
12 Valentine St	1840	14,617	5,294	(0.36)	Clapboard	Colonial
55 Valentine St	1916	33,383	4,136	(0.12)	Clapboard	Colonial
56 Valentine St	1880	19,495	4,963	(0.25)	Wood Shingle	Victorian
65 Valentine St	1950	25,270	1,916	(0.08)	Vinyl Siding	Split Level
69 Valentine St	1951	41,313	2,541	(0.06)	Vinyl Siding	Colonial
70 Valentine St	1900	25,243	3,644	(0.14)	Wood Shingle	Victorian
249 Highland St	1900	22,662	2,041	(0.09)	Stucco	Tudor
Average		21,003	3,704	(0.23)		
90 Highland Ave Proposed		10,269	3,125	0.28		

Zoning Review Memorandum

Date: December 14, 2010

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: Charles L. West, Applicant
Candace Havens, Interim Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow increased FAR and lot coverage

Applicant: Charles L. West	
Site: 95 Fountain Street	SBL: 32044 0005
Zoning: SR1	Lot Area: 11,355 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling

Background:

The property at 95 Fountain Street consists of 11,355 square feet improved with a single-family dwelling. Earlier this year the applicant converted the rear of the first floor into an accessible bedroom and bathroom, resulting in the loss of kitchen and storage space. The applicant proposes to add onto the remaining existing kitchen, create a back portico entrance to improve access for persons with disabilities, and add a new bulkhead providing access to the basement. The existing structure is nonconforming with regard to lot coverage, FAR, and rear setbacks.

The following review is based on plans and materials submitted to date as noted below.

Plans and materials reviewed:

- o Site Plan showing existing and proposed conditions, VTP Associates, Joseph R. Porter, Surveyor, signed and stamped, dated 7/7/10; revised 10/27/2010
- o Architectural drawings, Fontenot Contracting Company, unsigned and unstamped, dated 10/18/10
 - T1: Cover Sheet
 - D1: Existing First Floor/Demo Plan
 - A1: Proposed First Floor
 - A2: Left Side Elevation
 - A3: Rear Elevation
 - A4: Window and Door Schedule
 - S1: Foundation Plan
 - S2: 1st Floor Framing Plan

Administrative determinations:

1. The property is in the SR1 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot (see chart below).

SR1 Zone	Required/Allowed	Existing	Proposed
Lot size	15,000 square feet	11,355 square feet	No change
Frontage	100 feet	165 feet	No change
Setbacks <ul style="list-style-type: none">• Front• Side• Rear	25 feet 12.5 feet 25 feet	31.3 feet 17.6 feet 15.4 feet	No change No change 12.5 feet
FAR	.25	.27	.28
Building Height	30 feet	29.4 feet	No change
Maximum Stories	2.5	2.5	2.5
Max. Lot Coverage	20%	20.3%	20.8%
Min. Open Space	65%	72.4%	71.4%

2. The subject property is nonconforming with regard to FAR, rear setback, and maximum lot coverage. The applicant proposes to bump out the kitchen into the side yard and extend a porch from the rear entrance. The proposed site plan and architectural drawings show that these changes result in an increase in the nonconforming FAR, and lot coverage, and an extension into the rear setback. To build the project as proposed, the applicant must obtain a Special Permit from the Board of Aldermen under Section 30-21(a)(2)b) and Section 30-21(b).
3. See “Zoning Relief Summary” below:

<i>Zoning Relief Summary</i>		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§30-21(a)(2)b) and 30-21(b)	Increase nonconforming FAR	S.P. per §30-24
§30-21(a)(2)b) and 30-21(b)	Increase nonconforming lot coverage	S.P. per §30-24
§30-21(a)(2)b) and 30-21(b)	Extend nonconforming structure into rear setback	S.P. per §30-24

ATTACHMENT F

DRAFT
#47-11

CITY OF NEWTON
IN BOARD OF ALDERMEN
March 15, 2011

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming structure with respect to floor area ratio, rear setback, and lot coverage for a kitchen addition in the side yard and a covered porch entry on the rear of the structure, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Ted Hess-Mahan:

1. The proposed extension of a nonconforming structure will not be substantially more detrimental to the neighborhood than the existing structure for the following reasons:
 - a. The proposed FAR is the lowest on Fountain Street.
 - b. The proposed extension into the rear setback is for a deck, which is modest in size, will be located on the rear of the residence, and will not be visible from the street.
 - c. At 20.8 %, the proposed lot coverage only slightly exceeds the 20% that is allowed in the zone.
 - d. The increase in FAR would be consistent with the size, scale, and design of other structures in the surrounding neighborhood.
 - e. The improvements will be done in harmony with the historic character of the house and have been approved by the City's Senior Preservation Planner through an administrative review.

PETITION NUMBER: #47-11

PETITIONER: Charles L. West

LOCATION: 95 Fountain Street, Section 32, Block 44, Lot 5 containing approximately 11,335 sq. ft. of land

OWNER: Charles L. West and Frances W. West

ADDRESS OF OWNER: 95 Fountain Street, Newton, MA

TO BE USED FOR: Kitchen Addition in side yard for kitchen/storage space and rear covered porch entrance.

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Section 30-21(a)(2)(b) and 30-21(b) to increase the nonconforming floor area ratio, lot coverage, and to allow an extension of the structure in the rear setback, Section 30-24 for special permit approval

ZONING: Single Residence 1 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - "Plan Showing Proposed Conditions at #95 Fountain Street in Newton, Mass.," dated July 7, 2010, and revised October 27, 2010 signed and stamped by Joseph Porter, Professional Land Surveyor.
 - Architectural drawings as follows "95 Fountain Street Kitchen Renovation, Rear Portico," all drawn by David Fontenot and dated November 18, 2010, neither signed nor stamped:
 - "A-1, Proposed First Floor Plan"
 - "A-2, Left Elevation"
 - "A-3, Rear Elevation"
2. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. recorded a certified copy of this board order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:

- a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
- b. submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.